

FILED
CENTRAL SERVICES DIVISION

2023 NOV 28 PM 3:46

CHRISTOPHER L. KACAROW
CLERK ALLEN CIRCUIT
AND SUPERIOR COURTS

IN THE ALLEN COUNTY SUPERIOR COURT

JOSEPH CLARK,
General Delivery
117 5th Avenue, S.W.
Minot, North Dakota 58701

Hon. _____

02D09- 23 11 -CT- 000798
Case no. _____

"CT"

PLAINTIFF,

v.

**FORT WAYNE GARDEN
HOSPITALITY, INC.,**
5750 Challenger Parkway
Fort Wayne, Indiana 46818

**COMPLAINT FOR
MONETARY AND
INJUNCTIVE RELIEF**

JURY DEMANDED

DEFENDANT.

1. Plaintiff, Joseph Clark, by and through pro-se, hereby brings this complaint for monetary and injunctive relief against the above named defendant, and based upon personal knowledge, alleges as follows:

I. Introduction

2. The plaintiff, Joseph Clark, brings this cause of action against the defendant for negligence related to the Americans With Disabilities Act.

II. Jurisdiction And Venue

3. This Honorable Court has jurisdiction over this case pursuant to the Indiana Constitution. Jurisdiction is further conferred under the Indiana Code. Jurisdiction is further conferred under the Americans With Disabilities Act. Venue is proper in this county because the defendant maintains a principle place of business in this county.

III. The Defendant

4. The defendant owns and operates the Wyndham Garden hotel in Fort

Wayne, Indiana, located at 5750 Challenger Parkway, Fort Wayne, Indiana 46818.

IV. Jury Demand

5. The plaintiff hereby respectfully demands a trial by jury on all issues triable by jury by the maximum allowable number of jurors.

V. Factual Allegations

6. The defendant owns and operates the Wyndham Garden hotel in Fort Wayne, Indiana.

7. The defendant is responsible for ensuring that the Wyndham Garden hotel in Fort Wayne, Indiana, is in compliance with the Americans With Disabilities Act.

8. The defendant offers a swimming pool for its guests at the Wyndham Garden hotel in Fort Wayne, Indiana.

9. However, the defendant is in direct violation of the American With Disabilities Act on the first violation with the pool because there is not even one pool lift in violation of Chapter 2, Section 242 of the Americans With Disabilities Act.

10. The plaintiff stayed at the Wyndham Garden hotel in Fort Wayne, Indiana between May 27, 2023 and May 28, 2023.

13. Because of the defendant's negligence and deliberate and malicious violations of the Americans With Disabilities Act, the plaintiff was unable to use the swimming pool during his stay.

14. The defendant owes a duty to comply with the Americans With Disabilities Act and provide at least one pool lift for the pool. This is a mandatory provision of the Americans With Disabilities Act the defendant chooses to deliberately and maliciously violate.

15. The defendant breached the duty owed because the defendant has failed to provide at least one pool lift for the pool.

16. The breaches of the duties owed is the proximate and /or direct cause of the damages herein.

Count I - Negligence (Pool)

The defendant has committed **negligence** by failing to provide at least one pool lift for the pool.

Count II - A.D.A. Violation 1 (Pool)

The defendant has committed a violation of the Americans With Disabilities Act, Chapter 2, Section 242, by failing to provide at least one pool lift for the pool.

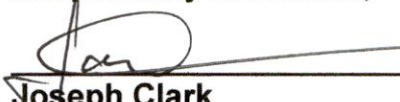
VI. Relief Requested

WHEREUPON, plaintiff respectfully requests the following relief: **COMPENSATORY** damages in the amount of **\$75,000.00** for the first violation of the A.D.A. being the pool. Plaintiff also requests **\$100,000.00** for reckless and / or intentional infliction of mental and / or emotional distress, humiliation and embarrassment. Total sued for **\$175,000.00**.

This plaintiff respectfully requests this honorable court issue **INJUNCTIVE** relief in the form of a preliminary and permanent injunction calling for the immediate placement of at least one pool lift in the pool.

This plaintiff respectfully requests any and all other relief this honorable court may deem just and proper.

Respectfully submitted,



Joseph Clark
Plaintiff (Pro-se)
General Delivery
117 5th Avenue, S.W.
Minot, North Dakota 58701